

**ENTERED**

May 31, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RAMONA DANIELS,

Plaintiff,

VS.

UNIVERSITY OF TEXAS MD ANDERSON  
CANCER CENTER, *et al*,

Defendants.

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CIVIL ACTION NO. 4:16-CV-2473

**ORDER ADOPTING MEMORANDUM AND ORDER**

Pending before the Court in the above referenced proceeding is Defendant Penny Phillips' Motion to Dismiss Plaintiff's Section 1981 Claim (Doc. #48) and Magistrate Judge Stacy's Memorandum and Recommendation (Doc. #49) recommending that Defendant Phillips' Motion to Dismiss be granted. Plaintiff Ramona Daniels neither responded to the motion for summary judgment nor did she object to the Memorandum and Recommendation.

Upon review, the Court agrees with the Magistrate Judge's conclusion that a Section 1981 claim alleged against a public official in his individual capacity can only be alleged through a Section 1983 claim. Although Plaintiff was given the opportunity to amend her pleading to assert her claim under Section 1983, she has failed to do so. Accordingly, it is hereby

**ORDERED** that the Memorandum and Recommendation (Doc. #49) is **ADOPTED**. Defendant Penny Phillips' Motion to Dismiss Plaintiff's Section 1981 Claim (Doc. #46) is **GRANTED**.

SIGNED at Houston, Texas, this 31<sup>st</sup> day of May, 2019.



ANDREW S. HANEN  
UNITED STATES DISTRICT JUDGE